

IC 25-14-4

Chapter 4. Referral Services

IC 25-14-4-1

Application of chapter

Sec. 1. This chapter does not apply to:

- (1) any individual, agency, association, or corporation not organized or incorporated for pecuniary profit or financial gain;
- (2) any organization or association that is exempt from taxation under Section 501(c) of the Internal Revenue Code; or
- (3) any policy issued under IC 27 or entity licensed or regulated under IC 27, including the following:
 - (A) A health maintenance organization under IC 27-13.
 - (B) A claim review agent under IC 27-8-16.
 - (C) A utilization review agent under IC 27-8-17.
 - (D) A preferred provider arrangement under IC 27-8-11.
 - (E) An insurance administrator under IC 27-1-25.

As added by P.L.33-1993, SEC.23. Amended by P.L.26-1994, SEC.8.

IC 25-14-4-2

Disclosure that dentist paid referral fee for participation in service

Sec. 2. A person, firm, partnership, association or corporation, or agent or employee that engages in for profit any business or service that in whole or in part includes the referral or recommendation of persons to a dentist for any form of dental care or treatment must disclose to a prospective patient at the time the prospective patient makes the contact with the service that the licensed dentist has paid a fee for participation in the service.

As added by P.L.33-1993, SEC.23.

IC 25-14-4-3

Out-of-state dental referrals to business not meeting chapter requirements

Sec. 3. A dentist may not enter into a contract or other form of agreement to accept for dental care or treatment a person referred or recommended for the care or treatment by a dental referral service business located in or doing business in another state if the dental referral service business does not meet the requirements of this chapter.

As added by P.L.33-1993, SEC.23.

IC 25-14-4-4

Advertisements by dental referral services; necessary disclaimers

Sec. 4. A for-profit dental referral service that advertises must include in each advertisement an audible or a written disclaimer revealing that:

- (1) Each subscribing member of the for-profit dental referral service is a dentist who has paid a fee to participate in the service.
- (2) Dentists who are members of the for-profit dental referral

service are not more or less qualified than dentists who are not members of the service.

As added by P.L.33-1993, SEC.23.

IC 25-14-4-5

Advertisements; prohibited acts

Sec. 5. For-profit dental referral service advertisements may not do any of the following:

- (1) Misrepresent facts, be deceptive, or create false or misleading impressions regarding the skills or abilities of subscribing dentists.
- (2) Contain statements or make recommendations concerning nonspecific or non bona fide claims of providing referrals to the most qualified dentists or dental practices.
- (3) Describe:
 - (A) a review process;
 - (B) a screening; or
 - (C) qualifications or information verification;that misleads the public into thinking a dentist subscriber has obtained a special recognition or joined a selective group of licensed dentists by being a member of the for-profit dental referral service.

As added by P.L.33-1993, SEC.23.

IC 25-14-4-6

Chapter violation; offenses

Sec. 6. A person who violates this chapter commits a Class A misdemeanor.

As added by P.L.33-1993, SEC.23.

IC 25-14-4-7

Injunctive relief

Sec. 7. (a) This section is in addition to the penalty imposed under section 6 of this chapter.

(b) Whenever there is a violation of this chapter, the attorney general may seek an injunction in a circuit or superior court with jurisdiction in the county where the violation occurred to enjoin and restrain the continuance of the violation.

(c) If the court finds that the defendant has violated this chapter, an injunction may be issued by the court enjoining and restraining any further violation without requiring proof that any person has been injured or damaged by the defendant's action.

As added by P.L.33-1993, SEC.23.

IC 25-14-4-8

Notice of intent to bring action against referral service; opportunity to cure violation

Sec. 8. (a) No legal action under this chapter may be commenced by the attorney general against a for-profit dental referral service until the attorney general has given the service thirty (30) days

written notice of the violation.

(b) Notice under subsection (a) must comply with the following:

- (1) Be sent by registered or certified mail, return receipt requested.
- (2) Include a copy of the code sections of the chapter alleged to have been violated.
- (3) Describe the alleged unlawful advertising.
- (4) Include a statement that the for-profit dental referral service has the lesser of:
 - (A) thirty (30) days from the date the notice was received; or
 - (B) thirty-five (35) days from the date the notice was sent;to cure the violation.

(c) A for-profit dental service that does not cure a violation within the time period required under subsection (b) is subject to sections 6 and 7 of this chapter.

As added by P.L.33-1993, SEC.23.

IC 25-14-4-9

Rules and guidelines

Sec. 9. Before January 2, 1994, the state board of dentistry established by IC 25-14-1-2 shall adopt rules under IC 4-22-2 that may include the following:

- (1) Guidelines regarding the referral of subscribing dentists for specialty services.
- (2) Guidelines for ensuring that patient referrals by the for-profit dental referral service must be initiated by a patient.
- (3) Guidelines for ensuring that the for-profit dental referral service does not impose a fee on the subscribing dentists dependent upon the number of referrals or the amount of professional fees paid by the patient to the dentist.
- (4) Guidelines for ensuring there is a prohibition against for-profit dental referral services limiting dentist subscribers solely on the basis of a dentist's exclusive geographic location.
- (5) Guidelines regarding dentists basing fees on services performed with no additional fee charged because the patient is a referral.
- (6) Guidelines for preventing for-profit dental referral service advertisements that are false, misleading, or deceptive.
- (7) Guidelines considering the content of disclaimers required in section 4 of this chapter for dental referral services that advertise on television or any other medium that combine audio and video. Such guidelines may require both audio and visual disclaimers.
- (8) A procedure for a for-profit dental referral service to forward complaints to the proper state authority.
- (9) Appropriate safeguards to ensure that all subscribing dentists are fairly selected for referrals on a rotating basis.
- (10) Guidelines for ensuring that a for-profit dental referral service must charge each subscribing dentist in the same advertising market the same fee to become a member of the

service.

*As added by P.L.33-1993, SEC.23. Amended by P.L.24-1999,
SEC.16.*